

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff;

v.

COMMONWEALTH OF PUERTO RICO,
ET AL.,

Defendants.

No. 12-cv-2039 (GAG)

MOTION TO RESTRICT UNITED STATES' RESPONSE IN OPPOSITION

COMES NOW, Plaintiff, the United States of America, by and through the undersigned counsel, and respectfully moves to restrict its Response in Opposition to Defendants' Motion to Restrict the Filing of Paragraph 241 Survey Reports for viewing by counsel for the Parties only, in compliance with Standing Order No. 9, *Amendment to the Restricted Filing and Viewing Levels Module*, Misc. No. 03-149 (Jan. 30, 2013). The United States seeks to restrict its Response in Opposition insofar as the Court permitted Defendants to file their underlying Motion to Restrict Surveys, ECF 1397, in restricted mode. *See* Order, ECF 1399 (Jan. 28, 2020). The United States disagrees with Defendants' rationale for seeking to restrict their Motion to Restrict Surveys from the public and may seek to unrestrict the filings once the Court rules on the Motion to Restrict Surveys. Therefore, the United States seeks to restrict its Opposition until further ordered by the Court. For cause, the United States respectfully states and prays:

1. On January 27, 2020, Defendants filed a Motion Submitting Defendants' Arguments in Support of Restricted Filing of Paragraph 241 Survey Reports (Motion to Restrict Surveys), ECF 1397.

2. Defendants moved simultaneously to restrict viewing of their Motion to Restrict Surveys, ECF 1396, and the Court granted the request the following day. *See*, Order, ECF 1399 (Jan. 28, 2020). In support of their Motion to Restrict, Defendants claimed—without evidence or legal support—that public interest supports eliminating the public’s access to their Motion to Restrict Surveys because the arguments are “sensitive” with “potential repercussions in public opinion and the reform process.” ECF 1396.

3. Defendants’ generalized assertions of “sensitive” arguments and “potential repercussions” in their Motion to Restrict are insufficient to overcome the presumption of the public’s right to access judicial records. *See In re Providence Journal Co., Inc.*, 293 F.3d 1, 9-10 (1st Cir. 2002). Defendants have the burden to justify why a judicial record should be restricted. *See F.T.C. v. Standard Fin. Mgmt. Corp.*, 830 F.2d 404, 413 (1st Cir. 1987). The First Circuit rejected conclusory assertions to justify impounding documents and observed that a finding of good cause is necessary based on a “particular factual demonstration of potential harm, not on conclusory statements.” *See id.* at 412 (denying motion to seal record) (internal citation and quotation marks omitted). Here, Defendants have not explained what repercussions they anticipate, how maintaining the public’s access to their Motion to Restrict Surveys will bring about those repercussions, or why the repercussions provide a legal justification for secrecy in filings with the Court.

WHEREFORE, the United States respectfully requests leave to file its Response in Opposition to Defendants’ Motion to Restrict the Filing of Paragraph 241 Survey Reports in restricted mode for viewing only by the Court until further ordered by the Court.

WE HEREBY CERTIFY that on today's date, we filed the foregoing pleading electronically through the CM/ECF system, which caused the parties, counsel of record, and the Acting Monitor on the service list to be served by electronic means.

Respectfully submitted, this 10th day of February, 2020,

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s/ Jorge M. Castillo _____

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